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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

8 QUENTIN ELLIS POOR BEAR,

9 Plaintiff,

Case No. C17-1229-RSM-JPD

10 v.

ORDER TO SHOW CAUSE

11 KENNY NAPIER, *et al.*,

12 Defendants.

13
14 Plaintiff Quentin Poor Bear is currently confined at the King County Correctional Facility
15 in Seattle, Washington. He has filed a civil rights complaint under 42 U.S.C. § 1983 in which he
16 seeks to challenge the revocation of his probation in a 2009 King County Superior Court
17 criminal case. (*See* Dkt. 3-1 at 3.) Plaintiff appears to assert that the statutory maximum
18 sentence for his 2009 conviction expired in August 2014, but Washington Department of
19 Corrections (DOC) personnel nonetheless revoked his probation in July 2017 and sanctioned him
20 to an additional 476 days of confinement. (*See id.*) Plaintiff identifies DOC Probation Officer
21 Kenny Napier, DOC Hearings Officer Jason Alty, Community Corrections Officer Dickerson,
22 and DOC Hearings Supervisor Kathy Cavanaugh as defendants in this action. (*See id.* at 2.)
23 Plaintiff seeks an Order from this Court directing the DOC to correct the error pertaining to his

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1 2009 case, and to restore probation time on a 2013 case, so that he can begin his probation on yet
2 another, more recent, case. (See Dkt. 3-1 at 4.)

3 In order to sustain an action under § 1983, a plaintiff must show (1) that he suffered a
4 violation of rights protected by the Constitution or created by federal statute, and (2) that the
5 violation was proximately caused by a person acting under color of state law. See *Crumpton v.*
6 *Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). To satisfy the second prong, a plaintiff must allege
7 facts showing how individually named defendants caused, or personally participated in causing,
8 the harm alleged in the complaint. See *Arnold v. IBM*, 637 F.2d 1350, 1355 (9th Cir. 1981).

9 Where a prisoner challenges the fact or duration of his confinement, his sole federal
10 remedy is a writ of habeas corpus, to which the exhaustion requirement applies. *Preiser v.*
11 *Rodriguez*, 411 U.S. 475, 489-90 (1973); *Young v. Kenny*, 907 F.2d 874, 875 (9th Cir. 1990),
12 *cert. denied*, 498 U.S. 1126 (1991). In *Heck v. Humphrey*, 512 U.S. 477 (1994), the United
13 States Supreme Court held that a § 1983 claim that calls into question the lawfulness of a
14 plaintiff's conviction or confinement does not accrue "unless and until the conviction or sentence
15 is reversed, expunged, invalidated, or impugned by the grant of a writ of habeas corpus." *Heck*,
16 512 U.S. at 489.

17 Plaintiff's complaint is deficient because he fails to state any claim upon which relief
18 may be granted in this civil rights action. Plaintiff does not allege in his complaint any violation
19 of a federally protected right, and the facts set forth in the complaint do not implicate federal
20 constitutional concerns. Rather, the facts alleged suggest that plaintiff's claim arises out of what
21 he believes to be an improper application of state law. Violations of state law do not give rise to
22 a cause of action under § 1983. Additionally, it appears that plaintiff may be attempting to
23 challenge in this action the lawfulness of his current confinement, but he makes no showing that

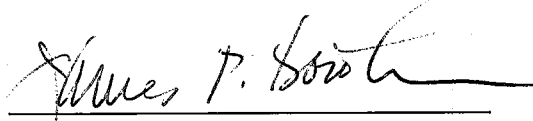
1 his current confinement has been invalidated in any fashion. It therefore appears that even if
2 plaintiff could identify a federal constitutional basis for his claims, those claims would be barred
3 by *Heck*.

4 Accordingly, the Court hereby ORDERS as follows:

5 (1) Plaintiff shall SHOW CAUSE not later than *thirty (30) days* from the date of this
6 Order why this action should not be dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B). Failure to
7 timely respond to this Order will result in a recommendation that this action be dismissed.

8 (2) The Clerk is directed to send copies of this Order to plaintiff and to the Honorable
9 Ricardo S. Martinez.

10 DATED this 21st day of September, 2017.

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13 JAMES P. DONOHUE
14 Chief United States Magistrate Judge
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